IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

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WEDNESDAY, THE EIGHTH DAY OF FEBRUARY

TWO THOUSAND AND SIX

P R E S E N T

THE HON'BLE SRI JUSTICE V.ESWARAIAH

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WP.No.2429 OF 2006

Between**:**

Komaravelli Meghamala … Petitioner

Versus

1. The Commissioner,

Siddipet Municipality,

Medak district.

2. The Town Planning Officer,

Siddipet Municipality,

Medak district. … Respondents

Counsel for the Petitioner: Mr.K.Govind

Counsel for the Respondents: Mr.S.Nageswara Reddy

O R D E R :

This writ petition is filed seeking a Writ of Mandamus to declare the action of the respondents in interfering with the possession of the petitioner's house and contemplating to demolish the house bearing no.6-2-56, situated near Borra Hanuman Temple, Siddipet town, as arbitrary, illegal, violative of Article 14, 21 and 300-A of the Constitution of India and consequently direct the respondents not to demolish the house of the petitioner.

Learned counsel for the petitioner submits that originally one Mr.P.Madhusudhan purchased the house bearing No.6-2-56, situated near Borra Hanuman temple in public auction conducted by Senior Civil Judge, Siddipet. The certificate of sale of property was issued under Order-21, Rule 94 of the Code of Civil Procedure. Thereafter, the said

Madhusudhan executed a gift deed in her favour on 13-11-2003 and the same was registered vide document no.5673/2003. Since then, the petitioner is in possession of the said house.

It is stated that the Siddipet Municipality proposed to widen the road making it as a 40 feet wide road. The Siddipet Municipality has no authority to take over the land without following the provisions of Land Acquisition Act, 1894 and also without issuing section 4(1) notification under the Land Acquisition Act. If the land acquisition proceedings are not initiated it has to obtain the previous approval of the District Collector for widening the road.

It is stated that the respondents are contemplating to demolish the house without any authority of law. The action of the respondent is not only violative of Article 14, 21 and 300-A of the Constitution of India but also contrary to Section 42 of the A.P. Municipalities Act, 1955.

Learned counsel for the petitioner further submits that the petitioner is not at all against the road-widening programme of the respondents and she has no objection for the said programme if their premises are acquired and if proper compensation is paid.

The only grievance of the petitioner is that the respondents without issuing any notices, without paying any compensation for her structure or the land and without following due process of law, are threatening the to demolish the existing structures for the purpose of road-widening.

The learned counsel for the petitioners further submits that the action of respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under

the Land Acquisition Act is utter violation of the principles of natural justice as well as Section 174 of the Andhra Pradesh Municipalities Act, 1965 (for short 'the Act').

This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case,

the writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the properties of the petitioner and not to dispossess her without following due process of law under Section 174 of the Act or private negotiations or initiating the proceedings under the Land Acquisition Act, 1894.

With the above direction, the writ petition is disposed of at the admission stage. No costs.

FEBRUARY 08th, 2005. ----------

l s L. V. ESWARAIAH, J.